9-13-1983

Criminal Court Procedures.

Office of the Secretary of State
March Fong Eu

1230 J Street
Sacramento, California 95814

Elections Division
(916) 445-0820

February 17, 1984

TO: ALL REGISTRARS OF VOTERS/COUNTY CLERKS/PROPONENT(S)

FROM: Deborah Seiler

DEBORAH SEILER
Assistant to the Secretary of State
Elections and Political Reform

Pursuant to Elections Code 3520(b) you are hereby notified that the total number of signatures to the hereinafter named proposed INITIATIVE CONSTITUTIONAL AMENDMENTS AND STATUTES filed with all county clerks is less than 100 percent of the number of qualified voters required to find the petition sufficient; therefore, the petition has failed.

TITLE: CRIMINAL COURT PROCEDURES
INITIATIVE CONSTITUTIONAL AMENDMENTS AND STATUTES

SUMMARY DATE: SEPTEMBER 13, 1983

PROPONENTS: EVELLE J. YOUNGER
ROBERT F. KANE

DS/lrb

Office of the Secretary of State
March Fong Eu

1230 J Street
Sacramento, California 95814

Elections Division
(916) 445-0820

0326

September 13, 1983

TO ALL REGISTRARS OF VOTERS, OR COUNTY CLERKS, AND PROPONENT

Pursuant to Section 3513 of the Elections Code, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed Initiative Measure entitled:

CRIMINAL COURT PROCEDURES.
INITIATIVE CONSTITUTIONAL AMENDMENTS AND STATUTES.

Circulating and Filing Schedule

1. Minimum number of signatures required 630,136
   Cal. Const., Art. II, Sec. 8(b).

2. Official Summary Date . . . . . Tuesday, 9/13/83
   Elec. C., Sec. 3513.

3. Petition Sections:

   a. First day Proponent can circulate Sections for signatures . . Tuesday, 9/13/83
      Elec. C., Sec. 3513.

   b. Last day Proponent can circulate and file with the county.
      All Sections are to be filed at the same time within each
      county. . . . . Friday, 2/10/84+
      Elec. C., Secs. 3513, 3520(a).

   c. Last day for county to determine total number of signatures
      affixed to petition and to transmit total to the Secretary of
      State . . . . . Friday, 2/17/84

   (If the Proponent files the petition with the county on a date prior to 2/10/84, the county has five working days from the filing of the petition to determine the total number of signatures affixed to the petition and to transmit the total to the Secretary of State.) Elec. C., Sec. 3520(b).

\+ PLEASE NOTE: To the Proponent who may wish to qualify for the 1984 Primary Election. The law allows up to approximately 58 days to county election officials for checking and reporting petition signatures and transmitting results. The law also requires that this process be completed 131 days before the election in which the people will vote on the initiative. It is possible that the county may not need precisely 58 days. But if you want to be sure that this initiative qualifies for the 1984 Primary Election, you should file this petition with the county before November 29, 1983.

d. Secretary of State determines whether the total number of signatures filed with all county clerks meets the minimum number of required signatures, and notifies the counties. . . . . Sunday, 2/19/84**

e. Last day for county to determine total number of qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State . . . . . Monday, 3/5/84

(If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 2/17/84, the last day is not later than the fifteenth day after county's receipt of notification.)
Elec. C., Sec. 3520(d), (e).

f. If the signature count is more than 693,149 or less than 567,123, then the Secretary of State certifies the petition has qualified or failed, and notifies the counties. If the signature count is between 567,123 and 693,149 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of all signatures . . . . . Wednesday, 3/7/84**

g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State . . . . . Friday, 4/6/84

(If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 3/5/84, the last day is not later than the thirtieth day after county's receipt of notification.)
Elec. C., Sec. 3521(b), (c).

h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient. . . . . Sunday, 4/8/84**

**Date varies based on receipt of county certification.

4. Campaign Statements:

   Last day for the Proponent to file a Campaign Statement of Receipts and Expenditures for period ending 3/9/84. . . . . Friday, 3/16/84

   (If the Secretary of State finds that the measure has either qualified or failed to qualify on a date earlier than 2/10/84, the last date to file is the 35th calendar day after the deadline for filing petitions or the date of notification by the Secretary of State that the measure has either qualified or failed to qualify, whichever is earlier. The closing date for the campaign statement is seven days prior to the filing deadline.)
   Gov. C., Secs. 84200(d), 84202(j).

5. The Proponents of the above named measure are:

   Evelle J. Younger
   Robert F. Kane
   Buchalter, Nemer, Fields, Chrystie & Younger
   700 South Flower Street
   Los Angeles, CA 90017-4183
   (213) 626-6700

Sincerely,

Deborah Seiler

DEBORAH SEILER
Assistant to the Secretary of State
Elections and Political Reform

NOTE TO PROPONENT: Your attention is directed to Elections Code Sections 41, 44, 3501, 3507, 3508, 3516, 3517, and 3519 for appropriate format and type considerations in printing, typing, and otherwise preparing your initiative petition for circulation and signatures. Your attention is further directed to the campaign disclosure requirements of the Political Reform Act of 1974, Government Code Section 81000 et seq.

0326

JOHN K. VAN DE KAMP
Attorney General

State of California
DEPARTMENT OF JUSTICE

1515 K STREET, SUITE 511
SACRAMENTO 95814
(916) 445-9555

September 13, 1983

FILED
In the office of the Secretary of State
of the State of California

SEP 13 1983

MARCH FONG EU, Secretary of State
By Barbara L. Lee
Deputy

Honorable March Fong Eu
Secretary of State
1230 J Street
Sacramento, California 95814

Dear Mrs. Eu:

Re: Initiative Title and Summary.
Our File No. SA83RF0018

Pursuant to the provisions of section 3503 and 3513 of the Elections code, you are hereby notified that on this day we mailed to the proponent(s) of the above identified proposed initiative our title and summary.

Enclosed is a copy of our transmittal letter to the proponent(s), a copy of our title and summary, a declaration of mailing thereof, and a copy of the proposed measure.

According to information available in our records, the name(s) and address(es) of the proponent(s) is as stated on the declaration of mailing.

Very truly yours,

JOHN K. VAN DE KAMP
Attorney General

Robert Burton
Deputy Attorney General

Enclosure

(RF-10, 6/83)

Date: September 13, 1983
File No.: SA83RF0018

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

CRIMINAL COURT PROCEDURES. INITIATIVE CONSTITUTIONAL AMENDMENTS AND STATUTES. Changes criminal court procedures regarding jury selection, continuances, admissible evidence, probation and parole revocation, grand juries, and other matters. Among other changes, provides agreement of 10 jurors is sufficient for criminal verdicts except in death penalty cases; authorizes hearsay evidence before grand jury or at preliminary examinations as basis for findings and restricts evidence presented to that needed to show sufficient cause to believe defendant committed an offense; expands judicial control of jury examination; requires showing of good cause for continuances; restricts motions made prior to or at preliminary examinations. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: The various provisions of this measure could affect the length and number of criminal proceedings (grand jury hearings, preliminary hearings, and trials) and the length of incarceration of defendants for whom probation or parole is revoked. Some of these changes probably would result in savings to state and local governments, especially those relating to non-unanimous jury verdicts, and the jury selection process. Other provisions, particularly those involving probation and parole revocation, could result in additional costs to state and local governments. Given the data available at this time, it is not possible to determine the measure's fiscal impact on state and local governments.

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

(Here set forth the title and summary prepared by the Attorney General. This title and summary must also be printed across the top of each page of the petition whereon signatures are to appear.)

To the Honorable Secretary of State of California

We, the undersigned, registered, qualified voters of California, residents of _____ County (or City and County), hereby propose amendments to the California Constitution and the Penal Code, relating to criminal court reforms, and petition the Secretary of State to submit the same to the voters of California for their adoption or rejection at the next succeeding general election or at any special statewide election held prior to that general election or otherwise provided by law. The proposed constitutional and statutory amendments read as follows:

SECTION 1. Title - "Criminal Court Reform Initiative."

The provisions of this initiative measure shall be known as the "Criminal Court Reform Initiative."

SECTION 2. Section 29 is added to Article I of the Constitution, to read:

SEC. 29(a) The People of the State of California find and declare that procedures exist in the criminal justice system which are detrimental to the adequate protection of society and that reforms are overdue.

The People of the State of California further find that swift criminal justice, consistent with recognized constitutional safeguards, is necessary for the preservation and promotion of public and personal welfare.

Yet, the California criminal court system has become unwieldy and unresponsive to the needs of society.

Jury selection often takes weeks and months, frequently lasting longer than the actual trial. Continuances are often granted without good reason. Trial costs mount at an alarming rate. Retrials increase the burden on the taxpayer without benefiting either the administration of justice or society.

Pretrial proceedings, including preliminary examinations and grand jury indictment hearings, are needlessly

complex and cumbersome. Imprisonment of repeat offenders on probation or parole is often needlessly delayed.

The People of the State of California find that such unwarranted and prohibitively expensive delays adversely affect all participants in a criminal action--victims, witnesses, jurors, attorneys, defendants and judges.

Delays in the criminal justice system deny justice to victims, defendants and society.

Delays in the criminal justice system impose hardships and disrupt the lives of victims, defendants, witnesses and jurors.

Delays in the criminal justice system cause congestion in the courts and greatly increase the cost of court proceedings.

The People of the State of California find that it is of the utmost importance, therefore, that delays in the criminal justice system be reduced to the greatest extent possible without infringing upon constitutional rights. Major reforms must be made in the procedures used to process criminal actions in order to accomplish this goal.

The People of the State of California further find and declare that such swift criminal justice can be attained by utilizing certain procedures used in Federal courts and in the courts of other states and by implementing decisions made by the United States Supreme Court.

(b) Jury Voir Dire In Criminal Actions. Notwithstanding any other provision of this Constitution, voir dire in a criminal action shall proceed as provided in this subsection. The conduct of voir dire pursuant to the provisions of this subsection shall not be deemed to violate any provision of this Constitution.

(1) The scope of voir dire shall be limited to questions reasonably designed to assist counsel in the intelligent exercise of challenges for cause.

(2) Except when the court finds that direct and oral questioning of prospective jurors by counsel is necessary in order to select a fair and impartial jury, voir dire questions shall be propounded to the prospective jurors by the court rather than by counsel. When the court finds that direct and oral questioning of prospective jurors by counsel is necessary in order to select a fair

and impartial jury, the court shall state on the record the reasons for its finding. The clerk, or the judge if there is no clerk, shall enter the court's finding and statement of reasons in the minutes.

(3) If counsel desires a question to be asked on voir dire, counsel shall submit the question to the court. The court may, in its discretion, propound the question to the prospective jurors if it determines that the question is reasonably designed to assist counsel in the intelligent exercise of challenges for cause.

(4) Voir dire of any prospective juror shall occur in the presence of the other prospective jurors, except that the court may conduct the voir dire of a prospective juror out of the presence of the other prospective jurors when, based on the particular facts of the case before the court, extraordinary circumstances require such voir dire in order to select a fair and impartial jury, or when all parties to the action stipulate that such voir dire may be conducted. The fact that a defendant is charged with a crime punishable by death shall not, in and of itself, constitute "extraordinary circumstances" within the meaning of this subsection.

(c) Probation And Parole Revocations Prior To Trial. Notwithstanding any other provision of this Constitution, probation and parole revocation proceedings shall be conducted in accordance with the provisions of this subsection. The conduct of such proceedings pursuant to the provisions of this subsection shall not be deemed to violate any provision of this Constitution.

(1) When a criminal action is filed against a person who is on probation and the action charges him or her with the commission of an offense during the period that the person was on probation, the court, upon the request of the prosecution, must hold a probation violation hearing prior to the trial in said newly filed criminal action. If at the hearing the court finds that the person has violated probation, prior to trial the court shall Have the power to revoke probation, impose sentence, order the execution of a previously suspended sentence, modify the terms and conditions of probation, and perform any other act concerning the person's probation, even though facts relating to the charged offense in the newly filed and untried criminal action are the sole basis for finding the person to be in violation of probation.

(2) When a criminal action is filed against a person who is on parole and the action charges him or her with the commission of an offense during the period that the person was on parole, prior to the trial in said criminal action the Board of Prison Terms, or whatever court, tribunal, or governmental body is authorized to hear parole matters and to revoke parole, shall have the power to hold a parole violation hearing and, if it finds that the person has violated parole, prior to that trial it also shall have the power to revoke parole, recommit the person to state prison, modify the terms and conditions of parole, and perform any other act concerning the person's

parole, even though facts relating to the charged offense in the newly filed and untried criminal action are the sole basis for finding the person to be in violation of parole.

(3) Any revocation of probation or parole shall not bar the subsequent prosecution of a criminal action based on the same facts that constituted the basis for the revocation.

(d) Grand Jury Indictment Proceedings and Preliminary Examinations. Notwithstanding any other provision of this Constitution:

(1) The sole purpose of a proceeding before a grand jury to determine whether an indictment should be returned and of a preliminary examination before a magistrate shall be to determine whether there is sufficient cause to believe the defendant guilty of a public offense. The finding of sufficient cause may be based in whole or in part on hearsay evidence. Hearsay evidence shall not be excluded at such a grand jury indictment proceeding or preliminary examination on the ground that it is hearsay. The admission of hearsay evidence at such a grand jury indictment proceeding or preliminary examination shall not be deemed to violate any provision of this Constitution

(2) The defendant shall have the right to present evidence at the preliminary examination only if he or she demonstrates, by an offer of proof, that there is a reasonable probability that such evidence will show that there is insufficient cause to believe that he or she committed a public offense. In the absence of such a reasonable probability, the magistrate shall have discretion to permit the defendant to present evidence at the preliminary examination.

(3) A person indicted by a grand jury shall not be entitled to a preliminary examination or any other hearing at which evidence is admitted for the purpose of determining whether there is sufficient cause to believe the defendant guilty of a public offense. The denial of such an examination or hearing to an indicted defendant shall not be deemed to violate any provision of this Constitution.

(e) Constitutionality Of Penal Code Section 864.5. The provisions of Penal Code Section 864.5, as enacted by the "Criminal Court Reform Initiative," shall not be deemed to violate any provision of this Constitution.

SECTION 3. Jury Verdicts. Section 16 of Article I of the Constitution is amended, to read:

SEC. 16. Trial by jury is an inviolate right and shall be secured to all. ~~, but in~~ In a civil cause three-fourths of the jury may render a verdict. Notwithstanding any other provision of this Constitution, in a criminal action the agreement of 10 jurors shall

be sufficient to render a verdict, except that the verdict shall be unanimous when the defendant is charged with a crime for which the penalty of death is sought.

A jury may be waived in a criminal cause by the consent of both parties expressed in open court by the defendant and the defendant's counsel. In a civil cause a jury may be waived by the consent of the parties expressed as prescribed by statute.

In civil causes the jury shall consist of 12 persons or a lesser number agreed on by the parties in open court. In civil causes in municipal or justice court the Legislature may provide that the jury shall consist of eight persons or a lesser number agreed on by the parties in open court.

In criminal actions in which a felony is charged, the jury shall consist of 12 persons. In criminal actions in which a misdemeanor is charged, the jury shall consist of 12 persons or a lesser number agreed on by the parties in open court. If the parties in a misdemeanor criminal action agree that the jury shall consist of 10 or fewer persons, the jury verdict shall be unanimous.

SECTION 4. Preliminary Examinations. Section 872 of the Penal Code is amended to read:

(a) If, however, it appears from the examination that a public offense has been committed, and there is sufficient cause to believe the defendant guilty thereof, the magistrate must make or indorse on the complaint an order, signed by him, to the following effect: "It appearing to me that the offense in the within complaint mentioned (or any offense, according to the fact, stating generally the nature thereof), has been committed, and that there is sufficient cause to believe the within named A.B. guilty thereof, I order that he be held to answer to the same."

(b) The provisions of this section may be amended or repealed by the vote of the electors through the initiative process, or by the legislature by a statute passed in each house by roll call vote entered in the journal, a majority of the membership concurring, without the approval of the electors.

~~(b)--The-finding-of-sufficient-cause-may-be-based-in-whole or-in-part-upon-hearsay-evidence-in-the-form-of-written statements-of-witnesses-in-lieu-of-testimony.--At-the-time-the defendant-appears-before-the-magistrate-for-arraignment,-the prosecuting-attorney-may-file-with-the-court,-and-furnish-a-copy to-the-defendant,-a-statement-made-under-penalty-of-perjury-of the-testimony-of-any-witness-which-the-prosecution-wishes-to introduce-into-evidence-at-the-examination-in-lieu-of-the testimony-of-the-witness.--The-statement-shall-be-considered-as evidence-in-the-examination.--This-subdivision-shall-not-apply if-the-witness-is-a-victim-of-a-crime-against-his-or-her-person, or-the-testimony-of-the-witness-includes-eyewitness~~

~~identification of a defendant, or the prosecuting attorney has not filed with the court and furnished a copy to the defendant the statement of the testimony of the witness at the time of the arraignment or at least 10 court days prior to the date set for the preliminary hearing. For the purposes of this section an "eyewitness" is any person who sees the perpetrator during the commission of the crime charged, whether or not he or she can identify the perpetrator.~~

~~(c) Nothing in this section shall limit the right of the defendant to call any witness for examination at the preliminary hearing. If the witness called by the defendant is one whose statement of testimony was offered by the prosecuting attorney as provided in subdivision (b), the defendant shall have the right to cross-examine the witness as to all matters asserted in the statement. If the defendant makes reasonable efforts to secure the attendance of the witness but is unsuccessful in securing his or her attendance, the court shall grant a short continuance at the request of the defendant and shall require the prosecuting attorney to present the witness for cross-examination. If the prosecuting attorney fails to present the witness for cross-examination, the statement of the testimony of the witness shall not be considered as evidence in the examination.~~

SECTION 5. Admissibility Of Evidence At Preliminary Examination. Section 872.5 is added to the Penal Code, to read:

(a) The finding of sufficient cause pursuant to Section 872 may be based in whole or in part upon hearsay evidence. Hearsay evidence shall not be excluded at the preliminary examination on the ground that it is hearsay, or on the ground that the admission of such evidence would violate any provision of the California Constitution.

(b) When the admissibility or inadmissibility of evidence depends upon the existence or nonexistence of a preliminary fact, at the preliminary examination the existence or nonexistence of the preliminary fact may be established in whole or in part by hearsay evidence.

(c) The best evidence rule shall not apply to preliminary examinations.

(d) The provisions of this section may be amended or repealed by the vote of the electors through the initiative process, or by the legislature (1) by a statute passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring, without the approval of the electors; or (2) by a statute that becomes effective only when approved by the electors as provided in subsection (c) of section 10 of Article II of the California Constitution.

SECTION 6. Postponement Of Preliminary Examination. Section 861 of the Penal Code is amended, to read:

The preliminary examination shall be completed at one session or the complaint shall be dismissed, unless the magistrate, for good cause shown by affidavit, postpones it. Good cause shall be deemed to exist, and no affidavit shall be required, if the prosecution relies in whole or in part upon hearsay evidence to prove any fact, and the magistrate finds:

(a) the evidence fails to establish sufficient cause to believe that the defendant is guilty of a public offense; and

(b) if the hearsay declarant testified in person at the preliminary examination, there is a reasonable possibility that the evidence would establish sufficient cause to believe that the defendant is guilty of a public offense; and

(c) if the preliminary examination is postponed, there is a reasonable probability that the prosecution will be able to obtain the attendance of the hearsay declarant at the preliminary examination.

Regardless of the reason for the postponement of the preliminary examination, the ~~The~~ postponement shall not be for more than 10 court days, unless either of the following occur:

(a) The defendant personally waives his or her right to a continuous preliminary examination.

(b) The prosecution establishes good cause for a postponement beyond the 10-court day period. If the magistrate postpones the preliminary examination beyond the 10-court day period, the defendant shall be released pursuant to subdivision (b) of Section 859b.

The preliminary examination shall not be postponed beyond 60 days from the date the motion to postpone the examination is granted, unless by consent or on motion of the defendant.

Nothing in this section shall preclude the magistrate from interrupting the preliminary examination to conduct brief court matters so long as a substantial majority of the court's time is devoted to the preliminary examination.

The provisions of this section may be amended or repealed by the vote of the electors through the initiative process, or by the legislature by a statute passed in each house by roll call vote entered in the journal, a majority of the membership concurring, without the approval of the electors.

SECTION 7. Motions And Defenses At Preliminary Examination. Section 864.5 is added to the Penal Code, to read:

(a) Prior to or at the preliminary examination, the magistrate shall have discretion to not rule upon a motion made by the defendant when the motion has no direct bearing on whether there is sufficient cause to believe that the defendant is guilty of a public offense.

(b) Notwithstanding subdivision (a), prior to or at the preliminary examination, the defendant shall be barred from litigating, and the magistrate shall lack jurisdiction to adjudicate, the following motions and defenses:

(1) A motion to dismiss based upon the ground that pretrial delay has resulted in a denial of the constitutional right to a speedy trial or to due process of law.

(2) A motion to discover the identity of a confidential informant.

(3) Any other motion for discovery, except when the prosecution has failed to perform its duty, pursuant to Section 859, of providing discovery of police, arrest, and crime reports, and the motion seeks the discovery of such reports.

(4) A motion to dismiss or to suppress evidence on the ground that law enforcement officials failed to preserve other evidence that might have been favorable to the defense.

(5) Any other motion to suppress evidence.

(6) The defense of once in jeopardy.

(7) The defense of a former judgment of conviction or acquittal of the offense charged.

(8) The defense of collateral estoppel.

(9) The defense that the defendant has been subjected to multiple prosecution for the same act or omission in violation of Section 654.

(10) The defense of discriminatory prosecution.

(11) Any other defense that has no direct bearing on whether there is sufficient cause to believe that the defendant is guilty of a public offense.

(c) Notwithstanding subdivisions (a) and (b), the defendant shall have the right to litigate, and the magistrate shall have the duty to adjudicate, the following motions:

(1) A motion to suppress evidence pursuant to Section 1538.5 on the ground that, as a result of an unlawful search or seizure, the United States Constitution mandates the suppression of evidence.

(2) A motion to reduce bail or for release pursuant to Section 1318.

(3) A motion to exclude witnesses pursuant to Section 867.

(4) A motion to exclude the public pursuant to Section 868.

(5) Any other motion that relates solely to the procedure to be followed in conducting the preliminary examination.

(d) The provisions of this section may be amended or repealed by the vote of the electors through the initiative process, or by the legislature (1) by a statute passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring, without the approval of the electors; or (2) by a statute that becomes effective only when approved by the electors as provided in subsection (c) of section 10 of Article II of the California Constitution.

SECTION 8. Section 865 Of The Penal Code Is Repealed.

~~Sec.--865.--Examination-of-witnesses-to-be-in-presence-of defendant,-etc.--The-witnesses-must-be-examined-in-the-presence of-the-defendant,-and-may-be-cross-examined-in-his-behalf.~~

SECTION 9. Section 866 Of The Penal Code Is Repealed.

~~Sec.-866.--Examination-of-defendant's-witnesses.--When the-examination-of-witnesses-on-the-part-of-the-people-is closed,-any-witnesses-the-defendant-may-produce-must-be-sworn and-examined.~~

SECTION 10. Defendant's Rights In A Criminal Action. Section 686 of the Penal Code is amended, to read:

In a criminal action the defendant is entitled:

1. To a speedy and public trial.

2. To be allowed counsel as in civil actions, or to appear and defend in person and with counsel, except that in a capital case he shall be represented in court by counsel at all stages of the preliminary and trial proceedings.

3. To produce witnesses on his behalf at trial and to be confronted with the witnesses against him, in the presence of the trial court, except that:

(a) Hearsay evidence may be admitted to the extent that it is otherwise admissible in a criminal action under the law of this state.

(b) The deposition of a witness taken in the action may be read to the extent that it is otherwise admissible under the law of this state.

The provisions of this section may be amended or repealed by the vote of the electors through the initiative process, or by the legislature by a statute passed in each house by roll call vote entered in the journal, a majority of the membership concurring, without the approval of the electors.

SECTION 11. Reception Of Evidence At Grand Jury Proceeding. Section 939.6 of the Penal Code is amended, to read:

~~(a)--Subject-to-subdivision-(b),-in-the-investigation-of-a charge,-the-grand-jury-shall-receive-no-other-evidence-than-such as-is:~~

~~(1)--Given-by-witnesses-produced-and-sworn-before-the-grand jury;~~

~~(2)--Furnished-by-writings,-material-objects,-or-other things-presented-to-the-senses;-or~~

~~(3)--Contained-in-a-deposition-that-is-admissible-under subdivision-3-of-Section-686.~~

~~(b)--The-grand-jury-shall-receive-none-but-evidence-that would-be-admissible-over-objection-at-the-trial-of-a-criminal action,-but-the-fact-that-evidence-which-would-have-been excluded-at-trial-was-received-by-the-grand-jury-does-not-render the-indictment-void-where-sufficient-competent-evidence-to support-the-indictment-was-received-by-the-grand-jury.~~

(a) In the investigation of a charge, the grand jury shall receive none but evidence that would be admissible over objection at the trial of a criminal action, except that:

(1) The finding of an indictment pursuant to section 939.8 may be based in whole or in part upon hearsay evidence. Hearsay evidence shall not be excluded on the ground that it is hearsay, or on the ground that the admission of such evidence would violate any provision of the California Constitution.

(2) When the admissibility or inadmissibility of evidence depends upon the existence or nonexistence of a preliminary fact, at the grand jury investigation the existence or nonexistence of the preliminary fact may be established in whole or in part by hearsay evidence.

(3) The best evidence rule shall not apply to grand jury investigations.

(b) If the grand jury received evidence that would have been excluded at the trial of a criminal action and that was not admissible pursuant to subdivision (a) of this section, the indictment shall not be set aside where sufficient competent evidence to support the indictment was received by the grand jury.

(c) The provisions of this section may be amended or repealed by the vote of the electors through the initiative process, or by the legislature (1) by a statute passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring, without the approval of the electors, or (2) by a statute that becomes effective only when approved by the electors as provided in subsection (c) of section 10 of Article II of the California Constitution.

SECTION 12. Production Of Evidence For Defendant At Grand Jury Proceeding. Section 939.7 of the Penal Code is amended, to read:

The grand jury is not required to hear evidence for the defendant, but it shall weigh all the evidence submitted to it, and when it ~~has reason to believe that other evidence within its reach will explain away the charge~~ finds that there is a reasonable probability that other evidence within its reach will show that there is insufficient cause to believe that the person under investigation committed a public offense, it shall order the evidence to be produced, and for that purpose may require the district attorney to issue process for the witnesses.

The provisions of this section may be amended or repealed by the vote of the electors through the initiative process, or by the legislature by a statute passed in each house by roll call vote entered in the journal, a majority of the membership concurring, without the approval of the electors.

SECTION 13. Section 1078 of the Penal Code is repealed.

~~It shall be the duty of the trial court to examine the prospective jurors to select a fair and impartial jury. He shall permit reasonable examination of prospective jurors by counsel for the people and for the defendant, such examination to be conducted orally and directly by counsel.~~

SECTION 14. Dismissal Of Action After Jury Unable To Agree On A Verdict. Section 1140.5 is added to the Penal Code, to read:

(a) Prior to the discharge of the jury, if it satisfactorily appears that there is no reasonable probability that the jury can agree upon a verdict as provided in article I, section 16 of the California Constitution, at the defendant's request the court shall poll the jury in open court to determine the number of votes cast for each possible verdict. The court shall severally ask each juror how he or she votes and the

clerk, or the judge if there is no clerk, shall record the vote of each juror in the minutes. If more than 6 but fewer than 10 jurors vote for a verdict in favor of the defendant, the court shall order the dismissal, pursuant to Section 1385, of the charge or allegation upon which the jury was unable to reach a verdict.

(b) The provisions of this section shall not apply when the jury is unable to return a verdict on the sanity or mental competence of the defendant.

(c) The provisions of this section shall not apply when the defendant is charged with a crime for which the death penalty is sought.

(d) The provisions of this section may be amended or repealed by the vote of the electors through the initiative process, or by the legislature by a statute passed in each house by roll call vote entered in the journal, a majority of the membership concurring, without the approval of the electors.

SECTION 15. Polling The Jury When A Verdict Is Rendered. Section 1163 of the Penal Code is amended, to read:

Polling the Jury. When a verdict is rendered, and before it is recorded, the jury may be polled, at the request of either party, in which case they must be severally asked whether it is their verdict, and if any one answer in the negative, the jury must be sent out for further deliberation only if the number of jurors answering in the negative would prevent the rendering of a verdict under the provisions of article I, section 16 of the California Constitution.

The provisions of this section may be amended or repealed by the vote of the electors through the initiative process, or by the legislature by a statute passed in each house by roll call vote entered in the journal, a majority of the membership concurring, without the approval of the electors.

SECTION 16. Recording The Verdict. Section 1164 of the Penal Code is amended, to read:

When the verdict given is such as the court may receive, the clerk, or if there is no clerk, the judge or justice, must record it in full upon the minutes, and if requested by any party must read it to the jury, and inquire of them whether it is their verdict. If any juror disagrees, the fact must be entered upon the minutes and but the jury must be again sent out only if the number of jurors disagreeing prevents the rendering of a verdict under the provisions of article I, section 16 of the California Constitution; but if no disagreement is expressed or if any disagreement expressed does not prevent the rendering

of a verdict under the provisions of article I, section 16 of the California Constitution, the verdict is complete, and the jury must be discharged from the case.

The provisions of this section may be amended or repealed by the vote of the electors through the initiative process, or by the legislature by a statute passed in each house by roll call vote entered in the journal, a majority of the membership concurring, without the approval of the electors.

SECTION 17. Motion To Suppress Evidence. Section 1538.5 of the Penal Code is amended, to read:

(a) A defendant may move for the return of property or to suppress as evidence any tangible or intangible thing obtained as a result of a search or seizure on either of the following grounds:

(1) The search or seizure without a warrant was unreasonable.

(2) The search or seizure with a warrant was unreasonable because (i) the warrant is insufficient on its face; (ii) the property or evidence obtained is not that described in the warrant; (iii) there was not probable cause for the issuance of the warrant; (iv) the method of execution of the warrant violated federal or state constitutional standards; (v) there was any other violation of federal or state constitutional standards.

(b) When consistent with the procedures set forth in this section and subject to the provisions of Section 170 through 170.6 of the Code of Civil Procedure, the motion should first be heard by the magistrate who issued the search warrant if there is a warrant.

(c) Whenever a search or seizure motion is made in the municipal, justice or superior court as provided in this section, the judge or magistrate shall receive evidence on any issue of fact necessary to determine the motion.

(d) If a search or seizure motion is granted pursuant to the proceedings authorized by this section, the property or evidence shall not be admissible against the movant at any trial or other hearing unless further proceedings authorized by this section, Section 871.5, Section 1238, or Section 1466 are utilized by the people.

(e) If a search or seizure motion is granted at a trial, the property shall be returned upon order of the court unless it is otherwise subject to lawful detention. If the motion is granted at a special hearing, the property shall be returned upon order of the court only if, after the conclusion of any further proceedings authorized by this section or Section 1238

or Section 1466, the property is not subject to lawful detention or if the time for initiating such proceedings has expired, whichever occurs last. If the motion is granted at a preliminary hearing, the property shall be returned upon order of court after 10 days unless the property is otherwise subject to lawful detention or unless, within that time, further proceedings authorized by this section, Section 871.5, or Section 1238 are utilized; if they are utilized, the property shall be returned only if, after the conclusion of such proceedings, the property is no longer subject to lawful detention.

(f) If the property or evidence relates to a felony offense initiated by a complaint, the motion ~~shall be made in the superior court only upon filing of an information, except that the defendant may make the motion at the preliminary hearing in the municipal or justice court but the motion in the municipal or justice court shall be restricted to evidence sought to be introduced by the people at the preliminary hearing~~ may be made in the municipal or justice court at the preliminary hearing. The motion shall be heard at least 10 days after the people have received written or oral notice, unless the people are willing to waive a portion of this time. When the motion is heard and ruled upon at the preliminary hearing, the defendant may not make the motion in the superior court, except as provided in subdivisions (h) and (i).

(g) If the property or evidence relates to a misdemeanor complaint, the motion shall be made in the municipal or justice court before trial and heard prior to trial at a special hearing relating to the validity of the search or seizure. If the property or evidence relates to a misdemeanor filed together with a felony, the procedure provided for a felony in this section and Section 1238 and 1539 shall be applicable.

(h) If, prior to the trial of a felony or misdemeanor, opportunity for this motion did not exist or the defendant was not aware of the grounds for the motion, the defendant shall have the right to make this motion during the course of trial in the municipal, justice or superior court.

(i) If the property or evidence obtained relates to a felony offense initiated by complaint and the defendant was held to answer at the preliminary hearing, and the defendant did not make the motion at the preliminary hearing, or if the property or evidence relates to a felony offense initiated by indictment, the defendant shall have the right to ~~renew or~~ make the motion in the superior court at a special hearing relating to the validity of the search or seizure which shall be heard prior to trial and at least 10 days after notice to the people unless the people are willing to waive a portion of this time. If the defendant made the motion at the preliminary hearing, the defendant shall have the right to make the motion at such a special hearing only if (1) the defendant has additional

evidence relating to the motion and not presented at the preliminary hearing, and the defendant shows good cause why such evidence was not presented at the preliminary hearing and why the prior ruling at the preliminary hearing should not be binding; or (2) the motion is based on new grounds that were not known to the defendant at the time of the preliminary examination. The defendant shall have the right to litigate the validity of a search or seizure de novo on the basis of the evidence presented at a special hearing. After the special hearing is held in the superior court, any review thereafter desired by the defendant prior to trial shall be by means of an extraordinary writ of mandate or prohibition filed within 30 days after the denial of his motion at the special hearing.

(j) If the property or evidence relates to a felony offense initiated by complaint and the defendant's motion for the return of the property or suppression of the evidence at the preliminary hearing is granted, and if the defendant is not held to answer at the preliminary hearing, the people may file a new complaint or seek an indictment after the preliminary hearing, and the ruling at the prior hearing shall not be binding in any subsequent proceeding. In the alternative, the people may move to reinstate the complaint, or those parts of the complaint for which the defendant was not held to answer, pursuant to Section 871.5. If the property or evidence relates to a felony offense initiated by complaint and the defendant's motion for the return or suppression of the property or evidence at the preliminary hearing is granted, and if the defendant is held to answer at the preliminary hearing, the ruling at the preliminary hearing shall be binding upon the people unless, upon notice to the defendant and the court in which the preliminary hearing was held and upon the filing of an information, the people within 15 days after the preliminary hearing request in the superior court a special hearing, in which case the validity of the search or seizure shall be relitigated de novo on the basis of the evidence presented at the special hearing, and the defendant shall be entitled, as a matter of right, to a continuance of the special hearing for a period of time up to 30 days. If defendant's motion is granted at a special hearing in the superior court, the people, if they have additional evidence relating to the motion and not presented at the special hearing, shall have the right to show good cause at the trial why such evidence was not presented at the special hearing and why the prior ruling at the special hearing should not be binding, or the people may seek appellate review as provided in subdivision (o), unless the court prior to the time such review is sought has dismissed the case pursuant to Section 1385. If the property or evidence seized relates solely to a misdemeanor complaint, and the defendant made a motion for the return of property or the suppression of evidence in the municipal court or justice court prior to trial, both the people and defendant shall have the right to appeal any decision of the court relating to that motion to the superior court of the county in which such inferior court is located, in accordance with the

California Rules of Court provisions governing appeals from municipal and justice courts in criminal cases. If the people prosecute review by appeal or writ to decision, or any review thereof, in a felony or misdemeanor case, it shall be binding upon them.

(k) If the defendant's motion to return property or suppress evidence is granted and the case is dismissed pursuant to Section 1385, or the people appeal in a misdemeanor case pursuant to subdivision (j), the defendant shall be released pursuant to Section 1318 if he is in custody and not returned to custody unless the proceedings are resumed in the trial court and he is lawfully ordered by the court to be returned to custody.

If the defendant's motion to return property or suppress evidence is granted and the people file a petition for writ of mandate or prohibition pursuant to subdivision (o) or a notice of intention to file such a petition, the defendant shall be released pursuant to Section 1318 unless (1) he is charged with a capital offense in a case where the proof is evident and the presumption great, or (2) he is charged with a noncapital offense defined in Chapter 1 (commencing with Section 187) of Title 8 of Part 1 and the court orders that the defendant be discharged from actual custody upon bail.

(l) If the defendant's motion to return property or suppress evidence is granted, the trial of a criminal case shall be stayed to a specified date pending the termination in the appellate courts of this state of the proceedings provided for in this section, Section 871.5, Section 1238, or Section 1466 and, except upon stipulation of the parties, pending the time for the initiation of such proceedings. Upon the termination of such proceedings, the defendant shall be brought to trial as provided by Section 1382, and subject to the provisions of Section 1382, whenever the people have sought and been denied appellate review pursuant to subdivision (o), the defendant shall be entitled to have the action dismissed if he is not brought to trial within 30 days of the date of the order which is the last denial of the petition. Nothing contained in this subdivision shall prohibit a court, at the same time as it rules upon the search and seizure motion, from dismissing a case pursuant to Section 1385 when such dismissal is upon the court's own motion and is based upon an order at the special hearing granting defendant's motion to return property or suppress evidence. In a misdemeanor case, the defendant shall be entitled to a continuance of up to 30 days if he intends to file a motion to return property or suppress evidence and needs this time to prepare for the special hearing on the motion. In case of an appeal by the defendant in a misdemeanor case from the denial of such motion, he shall be entitled to bail as a matter of right, and, in the discretion of the trial or appellate court, may be released on his own recognizance pursuant to Section 1318.4.

(m) The proceedings provided for in this section, Section 871.5, Section 995, Section 1238, and Section 1466 shall constitute the sole and exclusive remedies prior to conviction to test the unreasonableness of a search or seizure where the person making the motion for the return of property or the suppression of evidence is a defendant in a criminal case and the property or thing has been offered or will be offered as evidence against him. A defendant may seek further review of the validity of a search or seizure on appeal from a conviction in a criminal case notwithstanding the fact that such judgment of conviction is predicated upon a plea of guilty. Such review on appeal may be obtained by the defendant providing that at some stage of the proceedings prior to conviction he has moved for the return of property or the suppression of the evidence.

(n) Nothing contained in this section shall prohibit a person from making a motion, otherwise permitted by law, to return property, brought on the ground that the property obtained is protected by the free speech and press provisions of the Federal and State Constitutions. Nothing in this section shall be construed as altering (i) the law of standing to raise the issue of an unreasonable search or seizure; (ii) the law relating to the status of the person conducting the search or seizure; (iii) the law relating to the burden of proof regarding the search or seizure; (iv) the law relating to the reasonableness of a search or seizure regardless of any warrant which may have been utilized; or [v] the procedure and law relating to a motion made pursuant to Section 871.5 or 995 or the procedures which may be initiated after the granting or denial of such a motion.

(o) Within 30 days after a defendant's motion is granted at a special hearing in the superior court, the people may file a petition for writ of mandate or prohibition, seeking appellate review of the ruling regarding the search or seizure motion. If the trial of a criminal case is set for a date which is less than 30 days from the granting of a defendant's motion at a special hearing in the superior court, the people, if they have not filed such a petition and wish to preserve their right to file such a petition, shall file in the superior court on or before the trial date or within 10 days after the special hearing, whichever occurs last, a notice of intention to file such a petition and shall serve a copy of the notice upon the defendant.

(p) The provisions of this section may be amended or repealed by the vote of the electors through the initiative process, or by the legislature by a statute passed in each house by roll call vote entered in the journal, a majority of the membership concurring, without the approval of the electors.

SECTION 18. Effect Of Amendment Of Penal Code Section 1538.5. The amendment of Penal Code Section 1538.5 by this initiative measure does not create any new grounds for the exclusion of evidence that did not exist prior to the effective date of this measure. The changes in section 1538.5 made by this measure are procedural only.

SECTION 19. Continuances Of Criminal Proceedings. Section 1050 of the Penal Code is amended, to read:

(a) The welfare of the people of the State of California requires that all proceedings in criminal cases shall be set for trial and heard and determined at the earliest possible time. To this end the Legislature finds that the criminal courts are becoming increasingly congested with resulting adverse consequences to the welfare of the people and the defendant. It is therefore recognized that both the people and the defendant have the right to an expeditious disposition, and to that end it shall be the duty of all courts and judicial officers and of all counsel, both the prosecution and the defense, to expedite such proceedings to the greatest degree that is consistent with the ends of justice. In accordance with this policy, criminal cases shall be given precedence over, and set for trial and heard without regard to the pendency, of any civil matters or proceedings.

(b) To continue any hearing in a criminal proceeding, including the trial, a written notice ~~must~~ shall be filed and served on all parties to the proceeding within two court days of the hearing sought to be continued, together with affidavits or declarations detailing specific facts showing that a continuance is necessary ~~unless-the-court-for-good-cause-entertains-an-oral motion-for-continuance~~. A party shall not be deemed to have been served within the meaning of this section until it actually has received a copy of each document to be served.

(c) Notwithstanding subdivision (b), a party may make a motion for a continuance without complying with the requirements of that subdivision. However, unless the moving party shows good cause for the failure to comply with those requirements, the court must impose sanctions as provided in Section 1050.5.

(d) When a party makes a motion for a continuance without complying with the requirements of subdivision (b), the court shall hold a hearing on whether there is good cause for the failure to comply with those requirements. At the conclusion of the hearing the court shall make a finding whether good cause has been shown and, if it finds that there is good cause, shall state on the record the facts proved that justify its finding. The clerk, or the judge if there is no clerk, shall enter the court's finding and statement of facts proved in the minutes.

(e) Continuances shall be granted only upon a showing of good cause. Neither the convenience of the parties nor a stipulation of the parties is ~~not~~ in and of itself good cause.

(f) The court shall hold a hearing on whether there is good cause for a continuance. At the conclusion of the hearing, the court shall make a finding whether good cause has been shown and, if it finds that there is good cause, shall state on the record the facts proved that justify its finding. The clerk, or the judge if there is no clerk, shall enter the court's statement of facts proved in the minutes.

~~(e)~~ (g) When deciding whether or not good cause for a continuance exists, the court shall consider prior commitments of peace officer witnesses in the same manner as it would consider prior commitment of lay witnesses.

~~(d)~~ (h) Upon a showing that the attorney of record at the time of the defendant's first appearance in the superior court is a Member of the Legislature of this state and that the Legislature is in session or that a legislative interim committee of which the attorney is a duly appointed member is meeting or is to meet within the next seven days, the defendant shall be entitled to a reasonable continuance not to exceed 30 days.

~~(e)~~ (i) A continuance shall be granted only for that period of time shown to be necessary by the evidence considered at the hearing on the motion. Whenever any continuance is granted, the ~~facts proved which require the continuance shall be entered upon the minutes of the court.~~ court shall state on the record the facts proved that justify the length of the continuance. The clerk, or the judge if there is no clerk, shall enter the statement of facts proved in the minutes.

~~(f)~~ (j) Whenever it shall appear that any court may be required, because of the condition of its calendar, to dismiss an action pursuant to Section 1382 of this code, the court must immediately notify the Chairman of the Judicial Council.

(k) The provisions of this section shall not apply when:

(1) The prosecution or the defendant moves to continue the trial of a criminal action to a certain date, and, if the prosecution had moved to continue the trial to that same date over the defendant's objection without a showing of good cause, pursuant to Section 1382 the court would not have had the authority to dismiss the action.

(2) The preliminary examination is set on a date less than 10 court days from the date of the defendant's arraignment on the complaint, and the prosecution or the defendant moves to continue the preliminary examination to a date not more than 10 court days from the date of the defendant's arraignment on the complaint.

(1) The provisions of this section may be amended or repealed by the vote of the electors through the initiative process, or by the legislature (1) by a statute passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring, without the approval of the electors; or (2) by a statute that becomes effective only when approved by the electors as provided in subsection (c) of section 10 of Article II of the California Constitution.

SECTION 20. Sanctions For Failure To Comply With Penal Code Section 1050. Section 1050.5 of the Penal Code is amended, to read:

~~Whenever an attorney for the prosecution or the defense in a criminal case knows of the inability of a material witness or the defendant to attend a hearing, including the trial, and the attorney intends to seek a continuance based upon the inability of the witness or defendant to attend, the attorney shall notify the opposing counsel of that intent at least two court days prior to the hearing. The court upon finding a violation of this section has occurred, may impose a penalty not to exceed one hundred dollars ($100) upon the attorney who has failed to comply with this section.~~

(a) When, pursuant to subdivision (c) of Section 1050, the court must impose sanctions for failure to comply with the provisions of subdivision (b) of Section 1050, the court must impose one or more of the following sanctions:

(1) When the moving party is represented by counsel, a fine not exceeding $1,000.00 upon counsel for the moving party.

(2) When the moving party is the defendant appearing in propria persona, a fine not exceeding $1,000 upon the defendant.

(3) The filing of a report with an appropriate disciplinary committee.

(b) The authority to impose sanctions provided for by this section shall be in addition to any other authority or power available to the court.

(c) The provisions of this section may be amended or repealed by the vote of the electors through the initiative process, or by the legislature (1) by a statute passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring, without the approval of the electors; or (2) by a statute that becomes effective only when approved by the electors as provided in subsection (c) of section 10 of Article II of the California Constitution.

SECTION 21. Scope Of Application Of Initiative. The provisions of this initiative measure shall apply to all criminal proceedings conducted on or after the date that this measure becomes effective, regardless of when the crime is alleged to have been committed.

SECTION 22. Severability Clause. If any section, part, clause, or phrase of this initiative measure or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the measure which can be given effect without the invalid provision or application, and to this end the provisions of this initiative measure are severable.

LAW OFFICES OF

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PLEASE REFER YOUR REPLY TO:

LOS ANGELES OFFICE

*NORTHERN CALIFORNIA
**ORANGE COUNTY

July 15, 1983

Hon. John Van de Kamp
Attorney General
State of California
1515 K Street
Sacramento, Ca. 95814

Attention: Robert Burton

Dear Mr. Burton:

Please find the enclosed initiative, "The Criminal Court Reform Initiative", for title and summary by your office. The other proponent of this initiative is Robert Kane, Retired Justice of the California Court of Appeal.

Enclosed also is a cashier's check for $200 as required by law.

Sincerely,

Evelle J. Younger

Enc.

HAROLD ROPERS
(1924-1966)

EUGENE J. MAJESKI
JOHN M. BENTLEY
EUGENE D. WAGNER
ROBERT S. TUFT
JAMES H. McKENNEN
DANIEL J. TANAHAN
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July 18, 1983

The Honorable John Van de Kamp
Attorney General of California
1515 K Street, Suite 511
Sacramento, California 95814

Attention: Mr. Robert Burton,
Deputy Attorney General

Dear Mr. Attorney General:

As a registered voter in San Mateo County, I am submitting herewith for preparation of a title and summary a proposed initiative known as the "Criminal Court Reform Initiative".

Please be advised that Evelle Younger, Esq. is a co-proponent of this initiative.

Very truly yours,

Robert F. Kane

RFK:jmw
Enclosures

JOHN K. VAN DE KAMP
Attorney General

State of California
DEPARTMENT OF JUSTICE

1515 K STREET, SUITE 511
SACRAMENTO 95814
(916) 445-9555

September 13, 1983

Evelle J. Younger
Robert F. Kane
Buchalter, Nemer, Fields,
Chrystie & Younger
700 South Flower Street
Los Angeles, California 90017-4183

Re: Initiative Title and Summary.
Subject:Criminal Court Procedures.
Our File No. SA83RF0018

Pursuant to your request, we have prepared the attached title and summary of the chief purposes and points of the above identified proposed initiative. A copy of our letter to the Secretary of State, as required by Elections Code sections 3503 and 3513, our declaration of mailing, and the text of your proposal that was considered is attached.

The Secretary of State will be sending your shortly a copy of the circulating and filing schedule for your proposal that will be issued by that office.

Please send us a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file in this matter.

Very truly yours,

JOHN K. VAN DE KAMP
Attorney General

Robert Burton
Deputy Attorney General

Attachment

(RF-9, 6/83)

DECLARATION OF MAILING

The undersigned Declarant, states as follows:

I am over the age of 18 years and not a proponent of the within matter; my place of employment and business address is 1515 K Street, Suite 511, Sacramento, California 95814.

On the date shown below, I mailed a copy or copies of the attached letter to the proponents, by placing a true copy thereof in an envelope addressed to the proponents named below at the addresses indicated, and by sealing and depositing said envelope or envelopes in the United States mail at Sacramento, California, with postage prepaid. There is delivery service by United States mail at each of the places so addressed, or there is regular communication by mail between the place of mailing and each of the places so addressed.

Date of Mailing: September 13, 1983

Subject: Criminal Court Procedures

Our File No.: SA83RF0018

Name of Proponent(s) and Address(es):

EVELLE J. YOUNGER
ROBERT F. KANE
BUCHALTER, NEMER, FIELDS,
CHRYSTIE & YOUNGER
700 South Flower Street
Los Angeles, California 90017-4183

I declare under penalty of perjury that the foregoing is true and correct.

Executed at Sacramento, California on September 13, 1983.

MARSHA L. BIERER
Declarant

(RF-10a, 1/83)

326. CRIMINAL COURT PROCEDURES - CA 630,136	DATE PROP. FILED PET. W/CO.	DATE SOS REC RAW CT	DATE CO REC. R.S. LIST	LAST DATE MAIL CERT TO SOS	DATE SOS REC CERT FR. CO.	RAW COUNT	RANDOM SAMPLE	QUALIFIED	NOT SUFF.	DUP.	CALC. TOTAL	%
1. Alameda												
2. Alpine												
3. Amador												
4. Butte												
5. Calaveras												
6. Colusa												
7. Contra Costa												
8. Del Norte												
9. El Dorado												
10. Fresno												
11. Glenn												
12. Humboldt												
13. Imperial						23	23	15	8	—	15	
14. Inyo												
15. Kern												
16. Kings												
17. Lake												
18. Lassen												
19. Los Angeles												
20. Madera												
21. Marin												
22. Mariposa												
23. Mendocino												
24. Merced												
25. Modoc												
26. Mono												
27. Monterey												
28. Napa												
29. Nevada												
30. Orange												
31. Placer												
32. Plumas												
33. Riverside												
34. Sacramento												
35. San Benito												
36. San Bernardino												
37. San Diego												
38. San Francisco												
39. San Joaquin												
40. San Luis Obispo												
41. San Mateo												
42. Santa Barbara												
43. Santa Clara												
44. Santa Cruz												
45. Shasta												
46. Sierra												
47. Siskiyou												
48. Solano												
49. Sonoma												
50. Stanislaus												
51. Sutter												
52. Tehama												
53. Trinity												
54. Tulare												
55. Tuolumne												
56. Ventura												
57. Yolo												
58. Yuba												
											15	

except those involving the death penalty, agreement among 10 jurors is sufficient; death penalty verdicts would still be required to be unanimous.

A copy of the initiative, its title and summary, and circulation calendar is attached.

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8343MW

Barbara Lee

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For Immediate Release
September 14, 1983

Contact: Caren Daniels

CRIMINAL COURT REFORM INITIATIVE BEGINS, REPORTS EU

SACRAMENTO -- Delays in the criminal justice system and congested court calendars have been major concerns in California for several years. Secretary of State March Fong Eu today (Sept. 14) announced that she has approved for circulation an initiative petition aimed at altering the criminal court procedures to reduce these delays and provide swift criminal justice.

Former Attorney General Evelle J. Younger and Robert F. Kane, both of a Los Angeles law firm, are spearheading the drive to qualify the "Criminal Court Procedures" initiative. The proposal would amend both statutes and the constitution and so requires 630,136 signatures of registered voters to earn a spot on the ballot. The 150-day deadline to submit signatures is Feb. 10, 1984; however, to qualify for the June 1984 primary election ballot, all signatures should be submitted by Nov. 29, 1983 to allow sufficient time for full signature verification. Proponents Younger and Kane can be reached at (213) 626-6700.

In their findings and declarations, the proponents state that many of the procedures of the criminal justice system "are needlessly complex and cumbersome" causing delays and overcrowded calendars which "deny justice to victims, defendants and society" and "impose hardships and disrupt the lives of victims, defendants, witnesses and jurors." To reform the system, they propose to change criminal court procedures regarding jury selection, continuances, admissable evidence, probation and parole revocation, and grand juries. Their measure would expand judicial control over juror examination, allow continuances only with good cause, allow hearsay evidence before the grand jury or at preliminary examinations as a basis for findings, and restrict evidence to that needed to show cause to believe a defendant guilty. It further provides that for all criminal verdicts

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